

INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

REC'D 20 JAN 2005

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Applicant's or agent's file reference	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/EP 03/12603	International filing date (day/month/year) 11.11.2003	Priority date (day/month/year) 19.12.2002
International Patent Classification (IPC) or both national classification and IPC A23L3/3508		
Applicant UNILEVER N.V. et al.		

- This International preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 4 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

 These annexes consist of a total of 2 sheets.

- This report contains indications relating to the following items:
 - ☒ Basis of the opinion
 - ☐ Priority
 - ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - ☐ Lack of unity of invention
 - ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - ☐ Certain documents cited
 - ☐ Certain defects in the international application
 - ☐ Certain observations on the international application

Date of submission of the demand 29.03.2004	Date of completion of this report 19.01.2005
Name and mailing address of the International preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Vernier, F Telephone No. +49 89 2399-8646 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/EP 03/12603**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-13 as originally filed

Claims, Numbers

1-8 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

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International application No. **PCT/EP 03/12603**

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability;
citations and explanations supporting such statement**

1. Statement

Novelty (N)	Yes: Claims	1-8
	No: Claims	
Inventive step (IS)	Yes: Claims	
	No: Claims	1-8
Industrial applicability (IA)	Yes: Claims	1-8
	No: Claims	

2. Citations and explanations

see separate sheet

Item V

1. The following documents are considered:

D1: US-A-4 732 772

D2: EP-A-1 192 867

D3: WO 97/08956 A

2. Article 33(2) PCT

D1 (see in particular table 1 and column 4, lines 49-56) discloses a water-continuous food product, acidified with citric acid (0.3 wt%) and acetic acid (800 ppm) to a pH of 4.6-4.7 and comprising fat and proteins). Since present claim 1 is restricted to a concentration of acetic acid in the range 50-500 ppm, present independent claim 1 meets the novelty requirements.

3. Article 33(3) PCT

D1 is considered to be the closest prior art document to the subject-matter of present claims, in that it relates to a water-continuous product, which is chemically acidified and has a pH overlapping with that of present independent claim 1. The only difference between D1 and present claim 1 seems to be the higher amount of acetic acid (800 ppm in D1, 50-500 ppm in claim 1). However, this seems to be a trivial delimitation not related to any unexpected technical effect. Thus, present independent claim 1 does not involve an inventive step.

4. Article 33(4) PCT

The subject-matter of present claims 1-8 meet the requirements of Article 33(4) PCT, since it is applicable in the human nutrition industry.

5. Further comments

Contrary to the requirements of Rule 5.1(a)(ii) PCT, the document D1 has not been identified in the description and the relevant background art disclosed therein has not been briefly discussed.

ART 34 AMDT

Claims

1. Water continuous, chemically acidified product comprising a fat, from 0.1 to 15 wt% protein, acids, and having a pH from 3.5 to 5.5 characterised in that the acids comprise a combination of at least one food grade acid in an amount of from 0.01 to 2 wt% and from 50 to 500 ppm acetic acid, on the weight of the product.
2. Water continuous product according to claim 1 wherein the food grade acid is selected from the group comprising citric acid, lactic acid, hydrochloric acid, benzoic acid, propionic acid or a combination thereof.
3. Water continuous product according to claim 2 wherein the food grade acid is citric acid or a combination of citric acid and lactic acid.
4. Water continuous product according to any of claims 1-3 with a pH from 3.8 to 5.2, more preferred from 4.2 to 4.9.
5. Water continuous product according to any of claims 1-4, which comprises from 5 to 90 wt% oil.
6. Water continuous product according to claim 1 or 2 which comprises citric acid in an amount of from 0.2 to 0.4 wt% and acetic acid in amount from 100 to 300 ppm on total product weight.
7. Water continuous product according to claim 1 wherein the amount of fat is from 1 to 40 wt% fat, said product further comprising 0.5 to 10 wt% milk protein and 0.01 to 3 wt% thickener and having a pH from 4.2 to 5.5.

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8. Water continuous product according to any of claims 1-7 wherein the amount of lactic acid is below 0.5 wt% on total product weight.

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